COUNTY OF LOS ANGELES

# SHERIFF'S DEPARTMENT

OFFICE CORRESPONDENCE

DATE: January 19, 1994

FILE NO.: 093-04771-0178-055

FROM: MICHAEL A. NELSON, A/CHIEF
DETECTIVE DIVISION

TO: SHERMAN BLOCK
SHERIFF

SUBJECT: **LETTER OF OPINION ON DEPUTY INVOLVED SHOOTING**

A Letter of Opinion was received from the District Attorney's Office regarding the case involving Deputies Vance Duffy, #[redacted], Jack Demello, #[redacted], Thomas Reid, #[redacted], and John Bones, #[redacted].

STATION: Firestone

DATE OF SHOOTING: June 18, 1993

SUSPECT: [redacted]

Responding to a "man with a gun" call, deputies went in foot pursuit of the suspect who ultimately pointed his weapon at them. Fearing for their safety, deputies fired, killing him. The suspect's weapon was recovered.

DISTRICT ATTORNEY'S OPINION

"California law permits the use of deadly force in one's self-defense or in the defense of another if it reasonably appears to the person claiming the right of self-defense or the defense of another that he actually and reasonably believed that he was in imminent danger of great bodily injury or death.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent.

In the present case, these deputies pursued a man with a gun to an enclosed area where they state that he turned the gun toward them in a manner indicating that he was about to shoot. All

save Deputy Reid stated that he felt personally threatened by [redacted]. Deputy Reid expressed graphically his fear that [redacted] would shoot the fellow deputies and continue his flight. Independent witnesses supported the deputies' version. These witnesses acknowledged that [redacted] was armed, and that the deputies called for him to surrender before firing. Although one witness stated that she did not hear these commands, others at the same location indicated that commands were given. No independent witness was in a position to see [redacted]'s final action before the deputies fired at him. However, the statements of the deputies were corroborated in all other respects and a handgun was recovered from [redacted]. Given these facts, this office concludes that the deputies' stated fear for their safety was reasonably, and their response lawful. Accordingly, the Office of the District Attorney will take no further action, and considers this matter closed."



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
SPECIAL INVESTIGATIONS DIVISION

GIL GARCETTI • District Attorney
FRANK E. SUNDSTEDT • Assistant District Attorney

October 12, 1993

Captain Donn P. Brooks
Los Angeles County Sheriff's Department
Homicide Bureau
211 West Temple Street
Los Angeles, California 90012

Dear Captain Smith,

Re: S.I.D. File Number: 100-7577/93-0237
L.A.S.D. File Number: 093-04771-0178-055

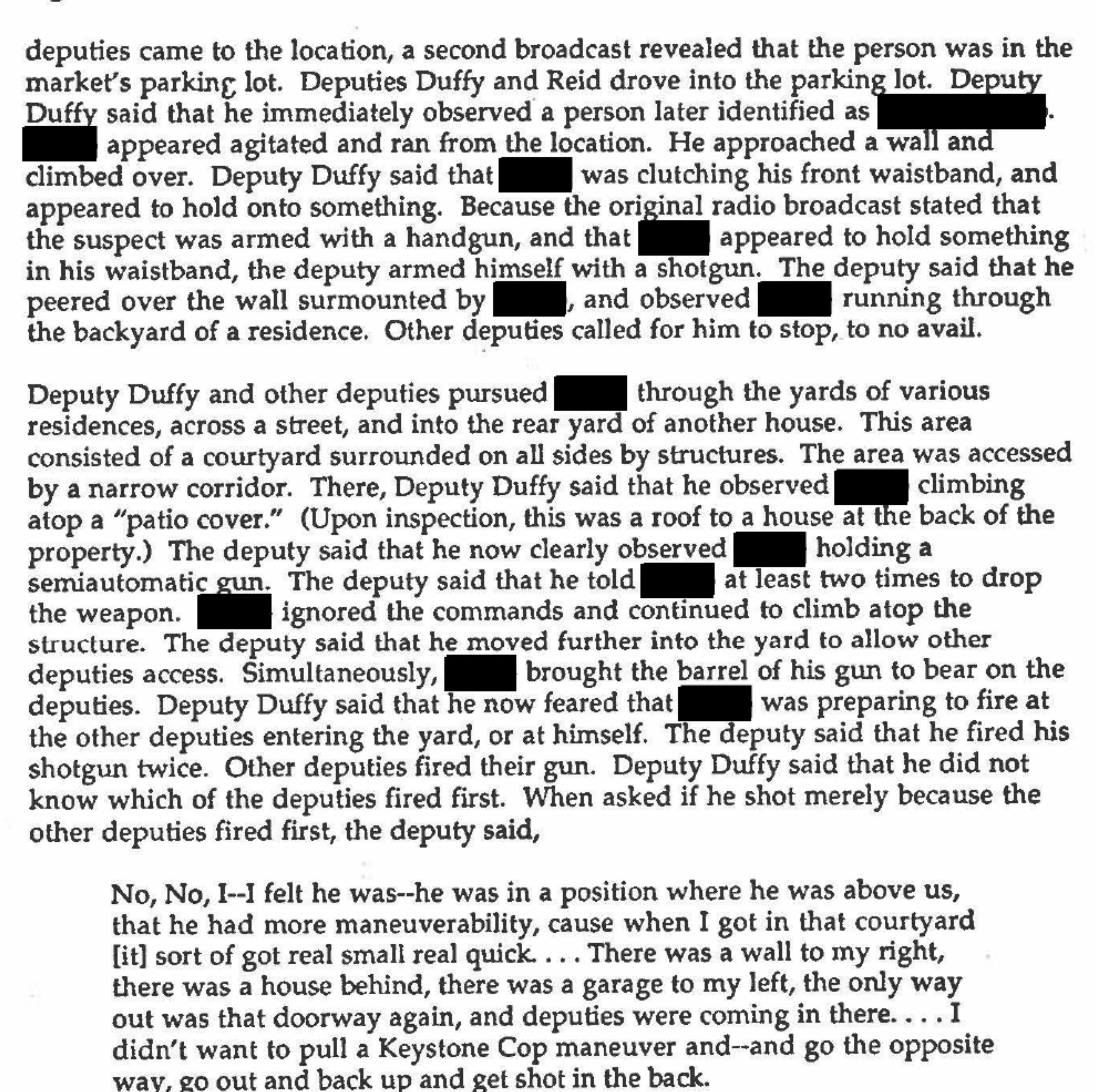
The Special Investigations Division of this office has completed its review of the circumstances surrounding the June 18, 1993 fatal shooting of [redacted], age 17, involving Los Angeles County Sheriff's Department Deputies Vance Duffy, Jack Demello, Thomas Reid, and John S. Bones. This inquiry consisted of a reading of all reports prepared by Sheriff's investigators, received September 27, 1993, a tour of the shooting scene by District Attorney Senior Investigator [redacted] and the undersigned, interviews with four independent witnesses, and attendance at an autopsy of the deceased by Investigator Purmalis. The foregoing investigation revealed that the decedent [redacted] was fatally wounded after he brandished a loaded firearm at these deputies. Accordingly, this office concludes that the deputies acted lawfully.

**FACTUAL ANALYSIS**

Sheriff's investigators interviewed each deputy involved in this incident.

**DEPUTY VANCE DUFFY:**

On June 18, 1993, at approximately 7:00 p.m., Los Angeles County Sheriff's Department Deputy Vance Duffy rode in a marked police vehicle with his partner Deputy Thomas Reid. All deputies involved in this incident wore standard Sheriff's uniforms. The two monitored a radio broadcast stating that a man with a gun was disrupting a local market. Having just passed the location, the deputies returned to the market and waited for additional deputies to arrive. As other



deputies came to the location, a second broadcast revealed that the person was in the market's parking lot. Deputies Duffy and Reid drove into the parking lot. Deputy Duffy said that he immediately observed a person later identified as [redacted]. [redacted] appeared agitated and ran from the location. He approached a wall and climbed over. Deputy Duffy said that [redacted] was clutching his front waistband, and appeared to hold onto something. Because the original radio broadcast stated that the suspect was armed with a handgun, and that [redacted] appeared to hold something in his waistband, the deputy armed himself with a shotgun. The deputy said that he peered over the wall surmounted by [redacted], and observed [redacted] running through the backyard of a residence. Other deputies called for him to stop, to no avail.

Deputy Duffy and other deputies pursued [redacted] through the yards of various residences, across a street, and into the rear yard of another house. This area consisted of a courtyard surrounded on all sides by structures. The area was accessed by a narrow corridor. There, Deputy Duffy said that he observed [redacted] climbing atop a "patio cover." (Upon inspection, this was a roof to a house at the back of the property.) The deputy said that he now clearly observed [redacted] holding a semiautomatic gun. The deputy said that he told [redacted] at least two times to drop the weapon. [redacted] ignored the commands and continued to climb atop the structure. The deputy said that he moved further into the yard to allow other deputies access. Simultaneously, [redacted] brought the barrel of his gun to bear on the deputies. Deputy Duffy said that he now feared that [redacted] was preparing to fire at the other deputies entering the yard, or at himself. The deputy said that he fired his shotgun twice. Other deputies fired their gun. Deputy Duffy said that he did not know which of the deputies fired first. When asked if he shot merely because the other deputies fired first, the deputy said,

> No, No, I--I felt he was--he was in a position where he was above us, that he had more maneuverability, cause when I got in that courtyard [it] sort of got real small real quick. . . . There was a wall to my right, there was a house behind, there was a garage to my left, the only way out was that doorway again, and deputies were coming in there. . . . I didn't want to pull a Keystone Cop maneuver and--and go the opposite way, go out and back up and get shot in the back.

After the gunfire ended, [redacted] collapsed on the roof, and appeared to attempt to push himself up. He maintained control of the gun. The deputy said that he again ordered [redacted] to drop the weapon and surrender, but was ignored. After an interval, [redacted] ceased all movement. The deputy stated that he believed that the threat ended. He climbed onto the roof, using a ladder stored in the courtyard. The deputy said that upon closer examination, he observed that [redacted] was bleeding. The deputy approached and, using his foot, pulled the gun away from [redacted]'s hand.

The movement caused the gun's magazine to eject, remaining in [redacted]'s hands. Deputy Bones removed the magazine and placed it next to the gun. Paramedics eventually arrived and pronounced [redacted] dead.

**DEPUTY THOMAS REID:**

Deputy Reid stated that he drove the police vehicle occupied by Deputy Duffy. After receiving the radio broadcast regarding the man with the gun, Deputy Reid and his partner drove to the area where the man was last observed. They received a description of the person's appearance and clothing. Upon arriving in the area, the deputies awaited the arrival of others. As two other Sheriff's cars arrived, Deputy Duffy shouted that he saw the suspect. Deputy Reid said that he looked and saw a person resembling the person described by the dispatcher. This person, later identified as [redacted], started running from the area. His right hand was positioned at his waistband as though he held an object. Deputy Reid drove a short distance in pursuit. The deputy said that [redacted] appeared to collide with a parked car and fall. [redacted] rose and resumed running. Deputy Reid said that as [redacted] stood, he displayed part of a handgun. Deputy Duffy exited the patrol car and gave chase on foot. [redacted] approached a wall and clambered over. Other deputies shouted to him to stop and drop the gun, to no avail. Deputy Reid exited his patrol car and climbed over the wall after [redacted]. Other deputies accompanied him. They pursued [redacted] to the back yard of a house. As Deputy Reid entered the area, he heard Deputy Demello shout, "Drop the gun. Put the gun down." Deputy Reid said that [redacted] was climbing on a roof. The deputy said that other deputies again commanded [redacted] to drop his gun. The deputy next heard a "boomer round." The deputy said that he did not know whether the other deputies were firing at [redacted], of if [redacted] fired at them. He saw [redacted] turn toward the deputies and fire twice to prevent [redacted] from shooting. The deputy said, ". . . [My] concern is he was turning around and he was gonna turn around--he had the--the advantage on them being up above them and all he's gonna do was dump or shoot at them and continue in his--escape. . . ."

**DEPUTY JACK DEMELLO:**

The night of this incident, Deputy Jack Demello was assigned as a patrol deputy along with Deputy Dan Nathan. Deputy Nathan did not fire his weapon. The two received a dispatch ordering them to assist other deputies assigned to investigate a complaint involving a man with a gun. Upon arriving in the area, he observed [redacted]. Both Deputy Demello and Deputy Nathan joined the pursuit of [redacted]. The deputy said that he repeatadly commanded [redacted] to stop and drop his weapon. [redacted] refused. The chase terminated in the rear yard of a residence. There, [redacted] attempted to pull himself to the roof of a structure located at the rear of the

courtyard. The deputy said that [redacted] turned and pointed his gun at him. Fearing that [redacted] was about to fire, the deputy said that he shot four times at [redacted] Other deputies also fired. [redacted] collapsed and other deputies ascended the overhang and secured [redacted]'s gun.

DEPUTY JOHN BONES:

Deputy John Bones stated that he and his partner, also not involved in the actual shooting of [redacted], were dispatched to handle a complaint involving a man with a gun. Upon arriving, he learned from other deputies that the suspect was running through the parking lot of the location. Deputy Bones observed [redacted] running through the area, and noted that [redacted] fit the description of the person who was allegedly armed. The deputy drove toward [redacted] who climbed over a wall. Deputy Bones exited his car and went in foot pursuit. The deputy said that he shouted at [redacted] to halt and drop his gun. [redacted] ignored the commands. As [redacted] reached the area where the shooting occurred, the deputy observed that [redacted] held a gun. [redacted] began climbing to the top of a roof. As this occurred, [redacted] turned toward the deputies and pointed the gun. The deputy said that he believed that [redacted] was preparing to fire at them. He responded by firing twice at [redacted]. Other deputies fired, and [redacted] collapsed. Deputies Bones and Duffy ascended to the top of the roof and disarmed [redacted]. Deputy Bones said that he removed the gun's magazine from [redacted]'s hand.

INDEPENDENT WITNESSES

District Attorney personnel interviewed four independent witnesses.

[redacted]:

[redacted] worked at the location where the original complaint originated. At approximately 6:55 p.m., on June 18, 1993, he observed two men arguing in the parking lot. One of the men drew a handgun from his waistband and pointed it at the other. The armed individual ran from sight. [redacted] asked a coworker to call the police. While the call was in progress, the man with the gun returned. Two Sheriff's patrol cars arrived and the man fled. [redacted] last observed numerous deputies climbing over a wall separating the parking lot from a private residence.

[redacted]:

[redacted] lived at the location where the shooting occurred. He said that he was in the residence's garage with his mother when a man ran by carrying a gun. [redacted] heard the words, "Drop it!" from a direction in front of the house. A few

seconds later, numerous Sheriff's deputies pursued the man into the back yard. The deputies screamed at the man. He could not understand what they said. [redacted] said that he next heard three or four gunshots from the area. He observed a man lying on the roof of a house in the rear of the yard.

[redacted]:

[redacted] said that on the night of the incident, she was in the garage to her residence, accompanied by her [redacted]. Her [redacted] told her that someone had just passed by. She turned and saw four to six uniformed Sheriff's deputies, with guns drawn, run into the back yard. She said that she exited the garage and stood next to the doorway leading to the back yard. She saw the deputies pointing their guns toward a corner of the yard. She shouted, "No!" fearing that they would shoot at a house in the rear of the yard. Hearing an unknown number of gunshots, she looked into the yard. She observed an unknown person sprawled facedown on the roof. She said that the events happened quickly and that she did not hear the deputies say anything before they fired.

[redacted]:

[redacted] said that she was sitting on the front porch of her home when an unidentified man ran toward the back yard. The man was pursued by several Sheriff's deputies. The man held a gun with two hands. [redacted] said that she entered her house to look for her [redacted]. She glanced out the kitchen window and saw that the gunman was on the roof of a house at the rear of the property. The deputies shouted, "Freeze!" The command was followed by an initial gunshot and three to five additional shots. [redacted] said that she crouched down before the shooting and did not see what the suspect did immediately prior to the gunfire.

## FURTHER INVESTIGATION

On June 19, 1993, Deputy Medical Examiner Paul A. Lindsay, M.D., performed an autopsy upon the decedent [redacted]. Dr. Lindsay ascribed the cause of death to multiple gunshot wounds. He specifically noted evidence of one shotgun blast to the left side of the face and one shotgun wound to the postero-lateral left chest. Three wounds caused by separate medium caliber bullets were observed in the lateral left chest. Individual bullet wounds were also observed in the posterior median upper right chest, posterior left elbow, and lateral left thigh.

A toxicological examination was also performed. The decedent's blood-alcohol content was measured at .06 percent. .14 milligrams per milliliter (ug/ml) of Cocaine and .36 ug/ml of Benzoylecgonine (cocaine metabolite) were also found.

Bullets recovered during the autopsy were compared to the pistols belonging to the involved deputies. The firearms examiner opined that two of the bullets were fired from Deputy Bones' gun, and four were fired from Deputy Reid's gun. Numerous other bullet fragments were too badly damaged for comparison. Shotgun shell casings recovered at the scene were ejected by the shotgun used by Deputy Duffy. Limitations in current technology did not allow any determination of the origin of the shotgun pellets recovered from the decedent.

At the shooting scene, District Attorney personnel observed a small-caliber semiautomatic pistol lying near decedent [redacted]'s hand. Deputies involved in this incident attributed the weapon to [redacted]. The Sheriff's Department firearms examiner identified this gun as a Smith and Wesson .22 caliber semiautomatic pistol. The magazine found with the gun contained 10 live cartridges.

A review of Sheriff's Department records indicated that [redacted] belonged to a local street gang called Florencia 13. [redacted]'s known nicknames were "[redacted]" and "[redacted]".

**LEGAL ANALYSES:**

California law permits the use of deadly force in one's self-defense or in the defense of another if it reasonably appears to the person claiming the right of self-defense or the defense of another that he actually and reasonably believed that he was in imminent danger of great bodily injury or death. People v. Williams (1977) 75 Cal. App. 3d 731, 739.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. California Jury Instructions--Criminal (CALJIC) 5.30, 5.32.

In the present case, these deputies pursued a man with a gun to an enclosed area where they state that he turned the gun toward them in a manner indicating that he was about to shoot. All save Deputy Reid stated that he felt personally threatened by [redacted]. Deputy Reid expressed graphically his fear that [redacted] would shoot the fellow deputies and continue his flight. Independent witnesses supported the deputies' version. These witnesses acknowledged that [redacted] was armed, and that the deputies called for him to surrender before firing. Although one witness stated that she did not hear these commands, others at the same location indicated that commands were given. No independent witness was in a position to see [redacted]'s final action before the deputies fired at him. However, the statements of the

deputies were corroborated in all other respects and a handgun was recovered from [redacted]. Given these facts, this office concludes that the deputies' stated fear for their safety was reasonable, and their response lawful. Accordingly, the Office of the District Attorney will take no further action, and considers this matter closed.

Very truly yours,

GIL GARCETTI
District Attorney

FRANK E. SUNDSTEDT
Assistant District Attorney

By

ALAN S. YOCHELSON
Deputy District Attorney
[redacted]

c: Deputy Vance Duffy
Deputy Jack Demello
Deputy Thomas Reid
Deputy John S. Bones